

General Terms and Conditions “Rental of devices / vehicles” of nobeo GmbH¹

1 Validity

- 1.1 These T&C apply to rental agreements between us and our customers, unless otherwise agreed in writing in individual cases.
- 1.2 The General Terms and Conditions of customers shall not apply unless expressly agreed in writing.

2 Offer and Conclusion of Contract

- 2.1 Our offers are non-binding and without obligation, unless a specific commitment period of the offer has been warranted in writing.
- 2.2 Contracts require our written confirmation to be effective, while orders are accepted even without our written confirmation, at the time we commence fulfilment of the contractual performance requirement, particularly if the customer has already received the requested rental property or it has already left the warehouse upon request by the customer.
- 2.3 All agreements made after concluding the contract, including changes, revocations or amendments, require our written confirmation to be effective. The same shall apply for any move to revoke the written form requirement.

3 Scope of Service

- 3.1 Our scope of service is determined by the offer accepted by the client or another written service description. We reserve the right to make minor or standard changes to the construction, design and arrangement of the rental property, provided these are limited to an extent reasonable for customers and do not jeopardise the purpose of the contract.
- 3.2 Dates and deadlines are anticipated times, unless expressly agreed upon as binding.
- 3.3 We are entitled to charge for any additional services which were not anticipated by either party at the time of ordering, but which proved necessary in the course of fulfilling the order and where no relevant agreement could be concluded. If no prices have been agreed for additional services, the prices listed in the price list shall apply.
- 3.4 We are entitled to commission subcontractors to perform the agreed services, in whole or in part. This shall not constitute a contractual relationship between customers and subcontractors; our obligations towards customers remain unchanged.
- 3.5 The rented items shall remain in our sole ownership and our indirect possession. The devices shall not be hired to any third party, except with our express and written consent; this does not apply to employees of customers. When concluding a contract or collecting devices with an intrinsic value exceeding EUR 1,000.00, we may request the name of the user of the devices or details of the driver for motor vehicles. Usage by any unnamed third party is prohibited. We shall be entitled to immediately terminate the rental agreement and take back the devices, if becoming aware of any illegal hiring to third parties.
- 3.6 Any re-leasing of items by customers at charge is only permitted with written approval.

4 Obligations of the Customer

- 4.1 The customer is obliged to inform us in detail of the intended purpose of use of the rental prop-

¹ This version of the General Terms and Conditions is recommended by the Verband Technischer Betriebe für Film und Fernsehen e.V. (Association of Technical Service Providers for Film and Television, hereinafter VTFF).

erty.

- 4.2 If the rental item is collected by the customer or a designated third party, it must be checked while still on site and any obvious or identified defects shall be immediately notified to our staff. If on-site inspection is not possible or only with disproportionate effort, the provisions of the obligation to notify defects in the following clause 4.3 shall apply.
- 4.3 In the event of consignment, devices must be immediately checked by the customer upon hand-over. Obvious defects or incompleteness must be notified immediately after the handover. Concealed defects must be notified immediately after such defects are discovered. Failure to notify under such circumstances shall render any claims under warranty null and void.
- 4.4 The customer is obliged to handle the hired items of property with the necessary care. Even in the event of hiring our devices to third parties, on a chargeable or unpaid basis, e.g. commercial or non-commercial re-leasing, the customer remains solely responsible for insuring the devices and – regardless of its own liability – ensuring any incidents triggering damages claims can be handled within the scope of its own insurance.
- 4.5 The customer is obliged to notify us immediately of any damage occurring (whether involving actual culpability, chance or actions of third parties).
- 4.6 The rental property may only be installed, operated and removed in accordance with the technical rules and exclusively by qualified personnel. If objects are rented but no personnel are procured from our side, the customer must ensure continual compliance with all valid safety regulations, particularly the accident prevention regulations of the relevant trade association and the guidelines of the Association of German Electrical Engineers, VDE. The customer is hereby informed that specifications and operating instructions are generally available online. If these instructions are not available online or if the customer is unable to locate them, we are happy to provide the same on request.
- 4.7 The customer is obliged to take suitable measures to protect the devices, particularly against environmental influences, such as heat, strong sunlight, sand, dust, moisture, seawater or rain, etc. as well as protection in case of recordings made from the air, vehicles, high mountains, underwater, offshore or in case of still photography. The customer must assess potential hazards to the rental property before using it and must therefore also ensure it obtains up-to-date details of impending weather changes. The customer is obliged to carefully safeguard the devices against loss and theft. The devices must be protected during loading and unloading and while in transit by suitable packaging against shocks, drops and vibration damage.
- 4.8 In the event of accidents or damage, the customer is obliged to take all measures necessary to defend or enforce claims and strive to support our interests and those of the insurance company (e.g. establishing the identity of the parties, their insurance, damage analysis by local police, etc.). The customer must inform us immediately in the event of an accident, where possible from the location of the incident itself and follow any reasonable instructions given by our employees to safeguard our interests.
- 4.9 The use of devices in areas subject to conflict, particularly in zones of civil and other wars, disaster areas and areas with radioactivity is prohibited.
- 4.10 Vehicles must not be used to convey passengers or objects at charge, or pull, push or otherwise move a vehicle or trailer.
- 4.11 As soon as a vehicle is not in use, it must be kept locked and the steering wheel lock must be engaged.
- 4.12 The customer pledges to observe the respective applicable legal provisions, e.g. StVO (Road Traffic Act), and Güterkraftverkehrsgesetz (Law on Road Haulage of Goods), as well as carrying the consignment papers, which may be required to use the tachograph (diagram recorder) and in due form as applicable.
- 4.13 The customer must inform us immediately of judicial enforcement measures affecting our devices. It shall bear the costs of all intervention measures to protect our rights of ownership and possession and any damages in the form of lost rental income due to enforcement measures.

5 Rental Period

- 5.1 The rental period commences as of the date of the handover and ends on the date of return to our warehouse, unless otherwise agreed. The minimum rental period shall be the contractually agreed period in all cases. The transport time is included in the rental period.
- 5.2 Unless other cancellation conditions have been agreed in a separate contract, the following provisions apply: If an order is cancelled within 48 hours before the start of the agreed rental period, a compensation fee amounting to 85% of the entire agreed rental charges shall be paid. The customer shall remain entitled to prove that any damage incurred was significantly lower or non-existent.
- 5.3 The transport costs shall be borne by the customer, who shall also bear the risk of transportation (regarding failure, delayed delivery, etc.), including in the event that the transport was organised by us at the request of the customer. This also applies in the event of a consignment made by ourselves or our representatives. The customer shall bear packaging costs, which shall be calculated at the net cost price.
- 5.4 In the event that the rented objects are consigned overseas, the customer pledges to ensure proper processing of customs procedures and shall also bear any associated costs and possible risks, e.g. if import restrictions apply.

6 Rent Payment

- 6.1 The rent for use of our devices and their accessories is determined in accordance with our price list valid at the time of concluding the contract, unless otherwise separately agreed in writing.
- 6.2 Regardless of clause 5.2, rental charges shall be levied in case of doubt in accordance with full daily rates. Saturdays, Sundays and public holidays shall also be charged in full.
- 6.3 Price quotations submitted to companies are net prices plus the statutory value-added tax.
- 6.4 For sets of devices, which are rented according to the valid price list with accessories at lump-sum prices or according to a separately agreed lump-sum price, the full rental price in accordance with the price list or agreement shall remain payable, even if individual accessories are not delivered at the request of the customer.
- 6.5 Otherwise, details of the type, duration and hiring of devices and motor vehicles shall, in principle, be in accordance with the individual contract.
- 6.6 Mileage fees for vehicles shall be charged in accordance with the mileage shown on the integrated odometer. In the event of any breakdown of the odometer, the charges shall be calculated in accordance with the distance travelled as determined with reference to a road map plus 20%. Motor vehicles shall be provided to customers fully refuelled and must be returned by customers in the same condition. If the route is unknown, a fixed rate per kilometre for motor vehicles shall be taken as the basis, assuming a daily mileage of 200 km. The customer shall remain entitled to prove that the actual number of kilometres travelled was less.

7 Payment Terms

- 7.1 In the event of delivery against invoice, the invoiced amount shall be due and payable immediately upon receiving the invoice without deduction. We are not obliged to accept cheques or bills of exchange. The acceptance of cheques or bills of exchange shall only be accepted on account of performance at all times, discount charges and bill charges shall be payable by the customer with immediate effect.
- 7.2 We are entitled to levy a charge, with effect from the 2nd collection letter, amounting to EUR 15.00 per reminder. The customer shall remain entitled to prove that no damages or significantly lower damages were consequently incurred. If the customer defaults on payment, we shall be entitled to request the statutory default interest, but at least interest amounting to 8% over the basic rate. This does not affect the right to exercise additional claims.

- 7.3 If we become aware of circumstances which call the customer's ability or willingness to pay into question; particularly if cheques have not been cashed, due payments have been stopped or the customer is in arrears with his/her payments, we shall be entitled to demand immediate payment of the remaining debt, even if cheques have been previously accepted and terms of payment and extensions granted. Under these circumstances, we shall be additionally entitled to request advance payments or collateral security or to withdraw from the contract after setting an appropriate deadline.
- 7.4 The customer is only entitled to offset, withhold or reduce payment, even if defects or counter claims are being asserted, if the counter claims have been assessed with legal effect or are undisputed.
- 7.5 In the event of termination, the customer hereby waives its domestic authority and authorises us to access any premises within which the rental property is stored for the purpose of repossession.
- 7.6 In the event that the customer defaults on payment – regardless of reason – we shall be entitled to ensure such claims are met using collateral in the form of securities which were transferred to our company by the customer through other business relationships. This particularly concerns the utilisation of objects handed over or transferred as security and transferred exploitation rights.
- 7.7 In the event that the customer is unable to pay (application for insolvency, opening or rejection of insolvency proceedings) we shall be entitled to liquidate certain securities as part of the insolvency proceedings.
- 7.8 In the event of payment default, extrajudicial insolvency proceedings or judicial recovery of the claim payment due to us, any discounts granted shall subsequently be revoked. Under such circumstances, we shall also be entitled to levy the list prices valid at the time of concluding the contract.

8 Security Deposit

We are entitled to collect a security deposit before handing over the devices amounting to their replacement value and exclusively entitled to collect any interest accrued on the same. In place of a security deposit, the customer may alternatively also put forward a directly enforceable guarantee issued by a major German bank.

9 Liability / Warranty

- 9.1 Liability without fault for initial defects in accordance with § 536a German Civil Code (BGB) is excluded.
- 9.2 We do not guarantee that the rented items will suffice to meet the intended use of the customers. The responsibility remains with the customer to ensure the desired end outcome can be achieved using the rented items.
- 9.3 We shall only be liable for damages, regardless of the legal grounds, in the event of intent and gross negligence and without limit in the event of personal injury. In the event of negligent breach of a key contractual obligation (cardinal obligation – namely obligations where compliance can be reasonably relied upon by the customer and where fulfilment of the same is a prerequisite for the proper performance of the contract), our liability shall be limited to reimbursement of the foreseeable, typically occurring damages amounting to 10,000.00 EUR. In other cases, liability for damage caused by negligence is excluded. Liability in accordance with the Product Liability Act is unaffected by the existing provisions. The liability limitation particularly applies for damage to picture and sound material caused e.g. by data loss or corruption.
- 9.4 The same applies for any fault of our workers, salaried employees or vicarious agents.
- 9.5 With regard to companies, legal entities under public law and special funds under public law as defined by § 310 para. 1 German Civil Code, we also disclaim all liability for gross fault of our vicarious agents, excluding senior executives or our agents.

- 9.6 We disclaim liability under circumstances involving force majeure, strikes, lockouts and the conduct of upstream and sub-suppliers in comparable cases.
- 9.7 The scope of the warranty claims of the customer primarily includes rectification and replacement within an appropriate deadline. If rectification is unsuccessful or the replacement delivery remains ineffective, the customer may request a reduction in rent, terminate or withdraw from the contract.
- 9.8 The place of performance for rectification of defects is our warehouse in Hürth. If, at the request of the customer, we render substitute performance at another location, the customer shall bear all related additional costs thereby incurred.
- 9.9 The customer is obliged to regularly check the sound and picture quality of digital cameras for possible defects. Attention is expressly drawn to the fact that the technical outcome of audio clips and images can be insured.

10 Insurances

- 10.1 The rented items are, in principle, to be insured by customers via insurance for cinematographic devices or transport insurance (against fire, water, burglary, other third party damage and destruction (regardless of type)) at the current replacement value. Prior to delivery of the rented objects, the customer must submit a certificate as evidence of the insurance taken out (policy), on which we are specified as the beneficiary.
- 10.2 Key changes in the circumstances of risk and all specific aspects, the extent of which exceeds the normal usage scope of the devices (danger of risks intensifying) are notifiable and must be notified separately before shooting commences. The costs for any additional insurance required shall be borne by the customer, regardless of whether the customer insures the devices personally or through us. In the event of theft, embezzlement, third party misappropriation and other loss of the rental item, the customer shall be liable, regardless of culpability. Alterations and/or attempts to repair the rented items are not, in principle, permitted. They are only allowed under exceptional circumstances and with our prior written consent.

11 Consequential Damages

- 11.1 For the period required to rectify any damage it has caused or pending replacement in the event of complete damage or loss, the customer undertakes to pay compensation amounting to the rental fee lost.
- 11.2 The date and, where applicable, times of the rental duration for devices and vehicles shall be defined in a separate contract. Where the customer fails to comply with predefined rental periods, except where we have given prior written consent, and thus prevented us from re-releasing the rented items to a subsequent customer, we shall be entitled to claim for damages at least equivalent to any damage claims directed at ourselves by said subsequent customer.

12 Return of the Rented Items

When accepting the return of devices and motor vehicles, such acceptance does not constitute confirmation on our part that said items were handed over without defects. We expressly reserve the right to have the devices and motor vehicles thoroughly examined and indicate any defects and losses up to 4 weeks after the return of the same (shortages). The customer must notify us of any damage to the devices no later than the time of their return and without being asked. This also applies when the customer believes there is only a possibility of such damage.

13 Place of Performance, Place of Jurisdiction, Applicable Law, Final Clause

- 13.1 Where the customer is a businessperson as defined by the German Commercial Code (HGB), a legal entity under public law or a special fund under public law, the place of jurisdiction is Cologne. In this case, we are also entitled to sue customers, at our discretion, at the customer's general place of jurisdiction. The same applies in the event that the customer has no general

place of jurisdiction in Germany, changes its general place of jurisdiction or place of residence to a place outside of the Federal Republic of Germany or the customer's habitual address or usual place of residence is unknown at the time the action is brought.

- 13.2 According to these General Terms and Conditions the contract is exclusively subject to the law of the Federal Republic of German. The validity of UN purchasing law and the rulings of international civil law are excluded. Where the customer is a consumer as defined by § 13 German Civil Code and is habitually resident abroad, the mandatory consumer protection provisions of this country remain unaffected.
- 13.3 If any provision of these General Terms and Conditions or a provision contained in any other agreements between the customer and ourselves is or becomes invalid, in whole or in part, the validity of the other remaining provisions or agreements shall be unaffected. Invalid provisions or agreements shall be replaced by valid alternatives, which most closely approximate the originally intended commercial purpose.

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